



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,314	06/20/2003	Jian Zhao	NASH-001/03US	6959

23419 7590 07/20/2004

COOLEY GODWARD, LLP  
3000 EL CAMINO REAL  
5 PALO ALTO SQUARE  
PALO ALTO, CA 94306

EXAMINER

DENTZ, BERNARD I.

ART UNIT	PAPER NUMBER
----------	--------------

1625

DATE MAILED: 07/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/601,314	<b>Applicant(s)</b> ZHAO ET AL.	
	<b>Examiner</b> Bernard Dentz	<b>Art Unit</b> 1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-74 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

Art Unit: 1625

Restriction is required between the following distinct and independent inventions:

I. Claims 1-12 drawn to making a mixture of the 4 compounds starting from green tea leaves.

II. Claims 13,14,57,61 and 62 involving pharmaceutical compositions or diet supplements involving mixtures of the 4 compounds

III. Claims 15-17, 28,29,34,35,38,58,59,61 and 62 involving methods of treating diseases involving fat metabolism using mixtures of the 4 compounds. The article of manufacture containing the above and instructions for use has been placed here.

IV. Claims 18-23,38 and 39 drawn to methods of treating conditions involving cardiovascular disease.

V. Claims 24 and 25 drawn to method of treating aids

VI. Claims 26 and 27 drawn to method of treating diabetes. VII. Claims 30 and 31 drawn to treating von Willebrand's disease.

VIII. Claims 32 and 33 drawn to treating leukopenia.

IX. Claims 36 –39 drawn to treating conditions involving cerebral vascular damage.

X. Claims 40-53 drawn to a method of making 1 of the 4 compounds as a separate compound comprising contacting tea polyphenols with aqueous buffer and polyphenol oxidase to form a reaction mixture, etc.

XI. Claims 54 and 60 drawn to a pharmaceutical composition or a dietary supplement containing separately 1 of the 4 compounds.

XII. Claims 55,56 and 62 drawn to a method of treating hyperlipidemia with 1 of the 4 compounds.

XIII. Claims 63-74 drawn to a capsule comprising a shell and a fill material comprising a mixture of the 4 compounds where the shell or fill material further contains a radiation blocker and an anti-oxidant.

The inventions are distinct, each from the other because: The methods of making are independent and distinct since one involves treating tea leaves and the other involves treating polyphenols apparently already separated from tea leaves. Treatment of diseases with a single active ingredient rather than a mixture of active ingredients can be patentably distinct. The instant several methods of treatment can be patentably distinct. The capsule claims are patentably distinct from the plain pharmaceutical composition claims since specific structure and other ingredients are recited.

Thus restriction as above is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernard Dentz whose telephone number is 571-272-0683. The examiner can normally be reached on Mon-Fri from 8:15 to 4:30PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang, can be reached on 571 272-0562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dentz

7-16-2004

  
BERNARD DENTZ  
PRIMARY EXAMINER  
GROUP 1625